

I R E L L & M A N E L L A L L P

A REGISTERED LIMITED LIABILITY LAW PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

840 NEWPORT CENTER DRIVE, SUITE 400
NEWPORT BEACH, CA 92660-6324
TELEPHONE (949) 760-0991

1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES, CALIFORNIA 90067-4276

TELEPHONE (310) 277-1010
WEBSITE: www.irell.com

March 24, 2023

VIA EMAIL

Michael R. Rueckheim
Winston & Strawn LLP
255 Shoreline Drive, Suite 520
Redwood City, CA 94065
MRueckheim@winston.com

Re: *Netlist v. Micron*, No. 22-cv-203 (E.D. Tex.)

Dear Mike:

Netlist has encountered numerous issues during its inspection of Micron's source code and schematics that have improperly interfered with Netlist's preparation of its case.

Invasion of Work Product: Micron refused to allow Netlist to touch the inspection computer. Netlist had to instruct a Micron employee on how to move the mouse and operate the keyboard. Micron stipulated that the employee's involvement is optional, but on the eve of inspection claimed that it is required. As a result, Netlist was unable to shield its review from the employee, and thus presumably from Micron's counsel. Micron refuses to identify the employee. Despite Micron's claims to the contrary, the employee made substantive statements about the inspection materials, and appears to be a percipient witness.

Inspection Blocked: Micron's employee refused Netlist's instructions to view materials related to accused HBM2, HBM3 and HBM-next products. Micron is yet again unilaterally limiting the scope of discovery, despite its obligations under P.R. 3-4.

"Custom" Software: After inspection was scheduled, Micron for the first time asserted that Netlist must pay for its own license to use software that has "customized features that are tailored to Micron's designs." Netlist found on the inspection computer other software that appears to work equally well. Micron has now doubled down, asserting that it will challenge the authenticity of printouts made with anything other than its "custom" software. Micron refuses to substantiate its claim with any specifics, and insists that Netlist somehow convince the supplier of Micron's "custom" software to grant Netlist a license, which Netlist understands costs thousands if not tens of thousands of dollars.

Document Dump: The inspection computer contains hundreds of nested folders with cryptic names, containing files with still further cryptic names. There is no direct correlation to any Micron products. The materials are so massive that Micron refused to allow printing of just the folder tree, claiming that doing so would result in excessive

IRELL & MANELLA LLP

A REGISTERED LIMITED LIABILITY LAW PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

Michael R. Rueckheim

March 24, 2023

Page 2

printouts. Netlist's review thus far has largely been limited to wading through the mass of materials just to try to figure out what they are.

Improper Time Limits: Micron initially offered only a single day, Friday, March 17, for Netlist's inspection. When inspection began on March 20, Micron grudgingly agreed to allow inspection to continue only until March 22, and then only grudgingly agreed to allow inspection to continue until March 24—a total of only five days. Inspections of this sort typically continue for weeks. Given that Netlist must travel to distant Boise, Idaho, allowing inspection for only a few days at a time unreasonably interferes with discovery.

Scheduling Gamesmanship: Despite that Netlist first requested inspection on January 20, Micron did not confirm a start date until March 15. Micron baselessly contends that it need not confirm any inspection unless and until Netlist picks a date, which date Micron can unilaterally reject, resulting in much back and forth and resulting delay. Micron's contention is not supported by the Protective Order, nor does it comport with the Court's expectation that the parties work cooperatively in discovery.

Needed Tools: For future inspections, please ensure that KiCad, software that is needed to view schematic (.sch, .oa) files, is installed on the inspection computers. Following is a link to download this free software: <https://www.kicad.org/download/>

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Werner', with a long horizontal flourish extending to the right.

Thomas C. Werner

cc: Counsel of Record (via agreed service emails)